

MAHSA CON Proposal

The Michigan Association of Homes and Services for the Aging is strongly committed to ensuring a long term care system where quality performance is mandated. We are steadfast in our support of a Certificate of Need system that protects consumers from providers with poor histories of performance and compliance.

It is important, however, to remember throughout this Certificate of Need SAC process, that the charge has been to “consider inclusion of quality measures (i.e., OSCAR database and licensing certification) for all applicants including the owner/operator and facilities under common ownership, proposing to initiate, expand, or acquire a facility. If recommended, specific quality measures criteria must be provided.”

It should be noted here that there is no clarity around what the specific purpose and goal for these changes may be: however, we will assume that the purpose would include identification of organizations who have consistently not met performance standards that the community desires.

Because of the potentially competitive nature of the Certificate of Need process, it is critical that facility performance is judged in ways that are meaningful and comparative. Using survey criteria as a method of comparison will not achieve those objectives. Surveys are well-known and documented as subjective and inconsistent. While it is safe to say that poor provider performance is generally reflected in survey outcomes, it is also true that providers who may not be bad performers may at times find themselves with poorer performance on survey. The likelihood of this is even greater when survey teams are well known to be inconsistent across the state. Thus a survey in Muskegon is not necessary equitable to a survey in Detroit.

Because of the poor performance of survey as a comparative tool, MAHSA suggests inclusion of the following Quality Measures to better identify those who are clearly poor providers. As identified in earlier testimony, MAHSA continues to include the special focus facilities in its criteria. While the special focus facilities are drawn from a pool of poor survey performers, it is really Michigan Department of Community Health experience and history that lands the provider on the list.

In addition, it is critical that Michigan begin to identify consumers and families as the ultimate judge of performance and the revised criteria below reflects that principle.

MAHSA proposed language for the quality measures is as follows:

(A) At the time of application, the applicant and all nursing homes/HLTCU under common ownership or control in Michigan and/or in other states shall provide a report demonstrating that it does not meet the following conditions. For chain organizations, the applicant shall provide a report demonstrating that it does not meet the following conditions in more than one of its nursing homes/HLTCU if it is a chain organization with 10 or less nursing homes/HLTCU or 14% or more of its nursing homes/HLTCU if it is a chain organization with more than 10 nursing homes/HLTCU:

- I. A state enforcement action resulting in a license revocation, reduced license capacity, or receivership within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of application.
- II. A filing for bankruptcy within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the application.
- III. Termination of a medical assistance provider agreement initiated by the Department or licensing and certification agency in another state, within the last three years, or from the change of ownership or control within 24 months of the date of the application.
- IV. Current listing as a Special Focus Facility in Michigan or any other state along with poor resident satisfaction survey outcomes.

(To meet the above condition, a facility designated as a Special Focus Facility must also demonstrate poor resident satisfaction survey outcomes (with rankings of good or excellent in overall satisfaction at a level to be determined by a workgroup) using an external process and specified nationally recognized tool for the past 12 months.)

- V. Outstanding debt obligation to the state of Michigan for quality assurance assessment program or civil monetary penalties.

(B) The applicant certifies that the requirements found in the minimum design standards for health care facility of Michigan, referenced in Section 20145(6) of the Public Health code, Act 368 of 1978, as amended, and are published by the Department, will be met when the architectural blueprints are submitted for review and approval by the Department.

(C) The applicant also certifies that a plan of correction for cited state or federal code deficiencies at the health facility, if any, has been submitted and approved by the Bureau of Health systems within the Department. Code deficiencies include any unresolved deficiencies still outstanding with the department.